

Serial Number 09/973,644
Amendment after Final Rejection
Reply to Final Rejection dated August 26, 2003

REMARKS/ARGUMENTS

As this is in response to the Final Rejection dated August 26, 2003, Applicant respectfully requests a one-month extension of time for submitting this Amendment.

Reconsideration and withdrawal of the rejections set forth in the Final Rejection are most respectfully requested.

By this Amendment, non-elected claims 1-21 have been canceled to advance the prosecution of the application, without prejudice to filing a divisional application thereon. Independent claims 22 and 34 have been amended to obviate a 35 USC 112 rejection and to recite preferred embodiments of the invention.

Specifically, the term "chemical barrier" films appearing in claims 22 and 34 has been canceled and replaced by "multilayer" films. Although Applicant does not agree that the term "chemical barrier" is indefinite, it has been replaced by the clearly acceptable term "multilayer" film. In addition, both claims 22 and 34 now recite that the inner layer of the structure comprises an unoriented nylon selected from the group consisting of nylon 6, nylon 6,6, nylon 6,6/6 and mixtures thereof (as previously claimed, for example, in claim 22), the middle layer of the structure comprises a biaxially oriented polyester and the outer layer of the structure comprises a biaxially oriented polyolefin. Support for these changes appears throughout the specification (see, for example, Example 1).

In addition, independent claims 22 and 34 now recite that the inner compartment of the package comprises an absorbent fabric and a solvent absorbed within the fabric, as previously recited in claims 23-25 which have been canceled. Dependent claims 26-28 and 30 have also been canceled. In view of the amendments to claim 22, claims 31 and 33 have been amended to delete reference to either the middle or the outer layer.

Claims 35-40 have been added to recite specific embodiments of the invention. Claims

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35 and 37 recite that the polyolefin comprises polyethylene and the polyester comprises polyethylene terephthalate, and claims 36 and 38 recite that the inner layer consists essentially of nylon 6, the middle layer consists essentially of a biaxially oriented polyethylene terephthalate and the outer layer consists essentially of a biaxially oriented polyethylene. Support for these changes can also be found throughout the specification, and more specifically Example 1.

It is respectfully submitted that claims 22, 29 and 31-40 are patentable and should be allowed.

With regard to the 35 USC 112 rejection of the claims, this has now been obviated by the deletion of the phrase that was considered indefinite ("chemical barrier"). Since the Examiner has agreed that the phrase "a perimeter" is not objectionable and since the phrase "such that ..." has been deleted from the claims (although such phrase was no longer considered objectionable), it is clear that all of the present claims fully comply with 35 USC 112. Therefore, withdrawal of this ground of rejection is warranted and is respectfully requested.

Certain claims were rejected under 35 USC 102 as being anticipated by Takagaki et al. (U.S.P. 5,352,043) and other claims were rejected under 35 USC 103 as being obvious over Takagaki et al. in view of Rivett et al. (U.S.P. 5,755,081), Deflander (U.S.P. 4,52,936) or Ng et al. (WO/ 95/15992). It is respectfully submitted that all of the pending claims fully define over these references, in whatever combination. Each such reference will be discussed below.

Independent claims 22 and 34 call for a package which is formed from a multilayer film; claim 22 calls for the package to be formed from two separate multilayer films and claim 34 calls for the package to be formed from a single multilayer film. Inside the package is a solvent-impregnated fabric. The inner layer of the film is an unoriented nylon (nylon 6, nylon 6,6, nylon 6,6/6 and mixtures thereof), the middle layer is a biaxially oriented polyester and the outer layer is a biaxially oriented polyolefin. The nylon layer provides resistance to chemicals as well as a heat seal layer, the polyester layer permits retention of the solvent in the package, and the polyolefin layer provides added strength, flexibility and puncture resistance to the structure.

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With respect to the 35 US 102 rejection over Takagaki et al., it is respectfully submitted that this reference does not teach or suggest the presently claimed invention. Rather, Takagaki et al. is directed to a self-supporting bag and is concerned with the formation of ribs in the layers of film that forms the bag. It is recognized that Takagaki et al. disclose a bag formed from a multilayer plastic film, but nowhere suggests the layers as set forth in the present claims. One of the layers of the structure of Takagaki et al. is a heat adhesive plastic layer and at column 5, lines 54-65 there is a myriad of materials that are suggested for such a layer. These include polyolefins, PVC, polystyrene, polyesters, polyamides, polycarbonates, polyarylates, polyethers, ethylene copolymers, ionomers and the like. The only disclosure of possibly employing a nylon as the heat adhesive layer is within this description. Indeed, the examples do not refer at all to nylon as the material for the heat adhesive layer; for example, in the Example at column 21, lines 33 et seq. the heat adhesive layer is polyethylene and the nylon layer is a separate layer.

In the only disclosure of a three-layered film in Takagaki et al. (column 6, lines 7 et seq.), there is reference to a structure which has a plastic layer that has lower melting points on the outside and a plastic layer that has a higher melting point as the middle layer. Examples of the lower melting point plastic are polyolefins and the higher melting point plastic are engineering plastic films such as nylon 6-6 and polyethylene terephthalate. There is no suggestion in Takagaki et al. of providing a structure in which the inner layer is an unoriented nylon (much less nylon 6, for example, with respect to claims 39 and 40), the middle layer is a biaxially oriented polyester and the outer layer is a biaxially oriented polyolefin. Indeed, there is no reason to select a nylon, especially an unoriented nylon 6, from the myriad of polymers mentioned by Takagaki et al. as possibly useful in the heat adhesive layer, and combine the same with the other layers claimed herein.

Clearly, Takagaki et al. does not disclose utilizing the specifically claimed nylons as the inner layer of their structure, much less an unoriented nylon of the claimed Markush group (and in particular, certainly not unoriented nylon 6) that also acts as a heat seal layer. Also, this reference does not suggest the combination of a polyester middle layer and a polyolefin outer

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layer, together with a nylon inner layer of the type of nylon claimed. Likewise, Takagaki et al. does not disclose a middle layer which is a biaxially oriented polyester or an outer layer that is a biaxially oriented polyolefin. Moreover, Takagaki et al. does not disclose forming a package of this specific structure wherein a solvent-impregnated fabric is sealed within the package. Therefore, it is clear that Takagaki et al. does not anticipate the invention claimed in claims 22 and 34 (nor their dependent claims). Thus, the 35 USC 102 rejection is not warranted and should be withdrawn.

With regard to the 35 USC 103 rejections based on Takagaki et al., the Rivett et al. patent was cited as showing a package which contains an absorbent fabric and a solvent absorbed in the fabric (a baby wipe). Although Rivett et al. disclose such a use for their multilayer film, such film has nothing in common with the film of Takagaki et al. nor solves any of the problems that may be inherent in the structure of the primary reference. Likewise, the multilayer film structure package of Rivett et al. bears no similarity to the structure claimed herein. For example, the structure of Example 1 of Rivett et al. has a ionomer heat seal layer (as opposed to an unoriented nylon layer of the type claimed herein), a middle EVOH heat-resistant layer, a color-carrying polyethylene layer and a heat-resistant PET layer. There is no mention of an unoriented nylon layer of the type claimed herein which is the heat seal layer, or the use of a biaxially oriented polyester middle layer or a biaxially oriented polyolefin outer layer.

It is firstly submitted that there would be no reason to combine the teachings of these two references. Even if they were somehow properly combined, the combination would still not result in the article claimed herein since the features absent from Takagaki et al. would still be missing. Therefore, it is respectfully submitted that the rejection based on Takagaki et al. in view of Rivett et al. is inapposite to the present claims and should be withdrawn.

Regarding the 35 USC 103 rejection of claim 26 over Takagaki et al. in view of Deffander, since claim 26 has been canceled this ground of rejection is moot.

With regard to the 35 USC 103 rejection of claim 30 as unpatentable over Takagaki et al.

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in view of Ng et al., although claim 30 has been canceled independent claims 22 and 34 recite the presence of a nylon layer of certain nylons and therefore Applicant submits the following comments on the proposed combination of references.

Ng et al. was cited for its teaching of the use of nylon 6 in the making of sealable packages in order to obtain maximum bond strength. However, the heat sealable layer of Ng et al. is not nylon 6, but rather a nylon copolymer which contains alkyl pendant groups. The reference to page 4, lines 27-30 of Ng et al. regarding maximum bond strength in a package is not a disclosure of the present invention since in that section of Ng et al. is referring to the overall polyamide film. That film is made heat-sealable by the presence of the nylon copolymer, not nylon 6 (or the other nylons claimed in claims 22 and 34). The reference to page 6, lines 20-31 likewise does not suggest the present invention. Rather, Ng et al. are merely referring to the other plastic layer (e.g., EVOH), which has a lower decomposition temperature than those of nylons and will degrade when coextruded. This is far afield from the teachings of Takagaki et al. and certainly does not suggest the herein-claimed invention. Clearly, Ng et al. do not rectify the deficiencies in Takagaki et al. that were pointed out above. It was stated in the Final Rejection that it would have been obvious to utilize nylon 6 in Takagaki et al. in order to obtain a package having maximum bond strength. However, Ng et al. do not teach nylon 6 films for such purpose -- rather, they require a nylon copolymer for improving the bond strength, not nylon 6 (or the other nylons) as claimed herein.

It is respectfully submitted that one skilled in the art would not combine the teachings of these references, and even if they were so combined the claimed invention would not be shown since the features missing in Takagaki et al. would still be missing. Accordingly, it is submitted that the claims are patentable over this proposed combination of references.

In summary, the present invention provides a sealed package which contains a solvent impregnated fabric. The specific nylon layer (in particular, nylon 6) in the multilayer package provides the chemical resistance to solvent, such that the solvent does not "eat through" or dissolve a portion of the package which could occur with other plastic films (e.g., polyethylene).

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At the same time, the unoriented nylon layer is heat sealable to itself. The outer biaxially oriented polyolefin layer provides strength, flexibility and puncture resistance, while the biaxially oriented polyester layer permits retention of the solvent in the package. It is respectfully submitted that this type of structure and the combination of layers is nowhere taught nor suggested in the applied prior art.

An earnest attempt has been made to place this application in condition for allowance. Upon entry of this Amendment, it is submitted that all of the claims (claims 22, 29 and 31-40) should be allowable. Therefore, entry of this Amendment and allowance of the application are respectfully requested. Alternatively, entry of this Amendment for purposes of appeal is respectfully solicited.

Should the Examiner believe that a discussion with Applicant's representative in any way advance the prosecution of this application, he is requested to telephone the undersigned.

Respectfully submitted,
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